



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

to be coaxed. The attempt to get the right kind of conventional work from men with but little knowledge of nature must result in failure. But naturalism is possible; and he who has technical knowledge of his trade can produce fair carvings of natural forms set before him. Therefore, considering the material at my command, all that has been sought in these carvings has been as careful a reproduction of nature as is consistent with the material used.

"But I believe that, unless men are kept at good work continually, there is no hope of getting first-rate results. What is learned on one building will be unlearned or forgotten on another. To my knowledge, nearly every man that worked on the Academy has been employed ever since in cutting Corinthian capitals and egg-mouldings for a house on Fifth Avenue in this city, with the exception of four, who were for a time doing some work, under my direction, for the Art Building at New Haven. So what we may anticipate for the future, time alone will determine; and it is a question whether we will ever have the best decorative carving on our buildings, unless some set of men can be kept at work long enough to educate themselves up to the proper standard."

The National Academy of Design has discharged one of its highest functions in the erection of an edifice which will do so much for the promotion of art in America, and it is to be congratulated on possessing so beautiful a building for its annual exhibitions and its permanent collections.

8. — *The American Republic: its Constitution, Tendencies, and Destiny.* By O. A. BROWNSON, LL. D. New York: P. O'Shea. 1866. 8vo. pp. xvi. and 439.

"AMONG nations," Dr. Brownson says, "no one has more need of full knowledge of itself than the United States, and no one has hitherto had less"; and in great measure, certainly, this is true. We are apt to deceive ourselves, in reflecting on the great reforms which we have introduced, and take more than due credit to our foresight, forgetting how much is owed rather to our circumstances than to ourselves. Liberty, democracy, humanity, are in America a natural growth. There was a constitution of the United States antecedent to that devised by the Convention of 1787, — a constitution without date, whose laws the framers of the written one followed, consciously or unconsciously. It is in accordance with the provisions of that *Magna Charta* that we are such firm believers in those safeguards of the inalienable rights of man which we are inclined to think the results of our prudence and calculation. Although feelings have generally carried us right, it cannot be doubted that this want of criticism and self-examination is an evil in the case of government, as it is in any other science. Emotions,

as a rule of action, are uncertain guides, and the unenlightened conscience no safer master for a people than an individual. On this account, all such books as Dr. Brownson's are valuable, if written in a fair and judicial spirit. They foster inquiry, they encourage study, they increase knowledge; however little they may teach us what is new, they call to mind what is old, and tend to the establishment of just *criteria* of thought and action. Whatever different opinions may be held on such important matters as the suffrage, the rights of property, the relations of labor and capital, this at any rate may be agreed, that individual notions of morality do not suffice to settle them, since these notions lead to utterly antagonistic results, encouraging one man to enslave, another to liberate, — one to demand, another to deny the ballot. The result must be despotism, or rather an anarchy where every man is autocrat.

Had Dr. Brownson's book, then, no other merit than that of stimulating discussion, it could hardly fail of doing good. But it has other merits. Considerable power of analysis, joined to a style usually sustained and adapted to the subject, give his thoughts value, which is increased by his knowledge of history and general acquaintance with philosophical speculation. Had it been possible for the author to separate in his own mind the natural from the supernatural, the results of his investigations would have been still more useful. The union of the two which he has effected was, however, in his own case, natural, and this union has made it impossible to examine his political conclusions critically, without recalling his religious persuasion. Dr. Brownson is a Catholic, and a sincere believer in Catholicism; he is also a liberal in politics, and a sincere liberal. To harmonize these two faiths was unconsciously his object, and the success is apparently so great that one almost begins to doubt their inherent incompatibility. The dogmas of the Roman Church have suffered changes in crossing the Atlantic that are not merely formal or external, but essential, substantive alterations. The true test of Catholicism is the Encyclical of 1864. Dr. Brownson, with his fellow-Catholics in this country, no more follow the Encyclical than they do Voltaire; the Pope, and perhaps Antonelli, are tolerably consistent dogmatists, but even a Pius IX. in America would cease to be so. The substance of Catholicism is a belief in the supremacy of authority over reason, and the natural issue despotism or anarchy. When, therefore, Dr. Brownson, from the premise of a Catholic creed, reaches the conclusion of republican government, it is evident that he has not followed the paths leading from his point of departure. By ending here, he has proved himself to be neither Catholic nor thorough rationalist. Like most men, unable to arrange the difficulties

between the conflicting forces in any other way, he has made them joint tenants of the realm of knowledge, restrained from clashing by a *posse comitatus* of will. It is by this means that he has obliged two entirely opposite forces to coalesce, apparently united, in one system. For this reason, the system, as a system, is illogical; and for this reason, however much we may agree with his conclusions, we cannot reconcile ourselves to their method, or admit a rational relation between the hypothesis and the demonstration. There is to the thorough student no axiom, no means, no end but truth; no preconception entices him from it, no casual expediency makes it appear any less dear to him. The desire for it is admirable in Dr. Brownson; what is to be regretted is the failure in obtaining it.

The fundamental question, the answer to which must form the basis of the science of government, is that of the origin of the right to govern; till this is answered, no such science can exist. Dr. Brownson has, therefore, devoted to its discussion a large part of his book, and shows, by very conclusive reasoning, that most writers have given answers unsatisfactory in essential particulars. His examination of this subject, in which every one, whether despot or democrat, has a stake, is interesting and valuable. Without going through all the eight theories into which Dr. Brownson divides governmental philosophy, an account of his discussion of three of them will show his strength, and at the same time his weakness. Rousseau's notion of a "social compact" founded itself upon an antecedent state of nature, of absolute liberty and irresponsible action; from this condition, impelled by its evils, mankind elevated themselves by the surrender to their creature, Society, of the rights better held by her than by individuals. Government is thus a contract; the parties contracting are the governed. Nevertheless, of this antecedent state of nature there is no proof; nay, all the known facts of early history go to its disproof. And even admitting the state of nature, there was no source from which men could derive the idea of government, since the supposition finds them unacquainted with it, and social changes in a state of nature are as impossible as the invention of speech in a state of silence. And even admitting both these inadmissible steps, the desired conclusion does not follow, since "individuals cannot give what they have not, and no individual has in himself the right to govern another"; nor has he even a sovereign right to himself, being dependent, not only on God, but on Society. Society may not meddle with those rights which he holds directly from God, as those of religion and property, nor can he give them to Society. In those matters in which he depends on Society, he must always be subject to her sovereignty, and this sovereignty exists even before the

formal constitution of government. The compact, then, cannot be formed, since the rights assumed to be given to Society are hers already, and those which she has not already cannot be made over to her, for by them is constituted the individual freedom which she is bound to protect, and from which she cannot detract. And, finally, when the compact has gone into operation, whom will it bind? Its basis is consent, and certainly those would not be bound who opposed it, nor even those who remained silent; the theory of social compact does not prove the great *desideratum*, the right of ancestors to bind the wills of their descendants. As to another theory, that of the collective sovereignty of the people, its grave error consists in undermining natural liberty, and arrogating to the state rights which man holds from God; it is the opposite of the theory of compact, one centring original rights in the individual, the other in the collective unit, thus erecting society into a despotism, and making the voice of the people the voice of God.

Dr. Brownson's own solution of the difficulty is this: while the Church derives its power immediately from God, the rights of government are drawn from God mediately, through the people, by means of the natural law. To know who the people are that have the authority to give to government this mediate right, is to know who are nations *de jure*. But the only means we have of arriving at this is by discovering what are and what are not nations historically. A *de facto* nation must be a *de jure* nation; and hence in every nation actually existing there is national sovereignty limited by that knowledge of the natural law "transmitted from Adam to us through two channels,—reason, which is in every man and in immediate relation with the Creator, and the traditions of the primitive instruction embodied in language and what the Romans call *jus gentium*, or law common to all civilized nations. Under this law, whose prescriptions are promulgated through reason and embodied in universal jurisprudence, nations are providentially constituted and invested with political sovereignty; and as they are constituted under this law, and hold from God through it, it defines their respective rights and powers, their limitation and their extent."

It is plain how theological and teleological this view of government is, and how incomplete. It in fact consists in little more than its own statement. The evidence of the flow of the natural law through the two channels of reason and *jus gentium* is not presented, nor that of the mediate government of God through the people; yet this evidence is precisely what is necessary to give the theory body. Existing facts should at any rate be shown to be in accordance with the supposed basis of them, and it is difficult in this case to find a proof of such ac-

cordance. If primitive instruction was the origin of the *jus gentium*, for example, we should expect to find the stream growing purer and purer towards its source; or if not so, then to find the waters, at any rate, no muddier. But a little way back the flow itself almost ceases, and instead of purity we find what approaches stagnation. If the *jus gentium* is of human origin and development, this fact is accounted for. Those who wish to believe in primitive instruction must forget the fact. But Dr. Brownson accounts to the greatest possible extent for this eccentricity of reasoning by the statement that the book is rather for Catholics than Protestants. Catholics in America are of necessity more illogical than in other countries.

But whatever Dr. Brownson's artificial system, his natural one is such that he arrives at exactly those conclusions which entirely different processes usually engender. The logic of events and history is too strong for his forced arrangements, and the demonstration is of that kind which, if itself be proved, disproves the hypothesis.

Proceeding from the origin to the constitution of government, this is of two sorts,—one the constitution by law, as, for example, that drawn up by the Convention of 1787, the other the Constitution by historical fact. The latter is in origin providential, the former conventional. To understand the one, we must know the other. In the case of the United States, it is eminently necessary to settle the point whether the States are the providential depositaries of national power in their separate or their collective existence. The dogma of original State sovereignty, so long and so stoutly maintained, the assertion that the Union was a nation created by un-united States, Dr. Brownson vigorously opposes. In his opinion the United States have always been the United States, providentially united never to be disunited. They have always been one nation, never have been made up of nations. Sovereignty is neither in the States separate nor in the Union as outside the States; it is in both, in the States united. Had the thirteen States been sovereign, they could not have formed a sovereign government; they could have made nothing better than a league, from which the members might have withdrawn at pleasure; for it would have been impossible to surrender their sovereignty to something which as yet had no existence. The national entity may be surrendered to another national entity; but it cannot, for the purpose of forming a new national entity, be given up to a national nonentity. All the objections which apply to the compact theory are fatal to this one. For these reasons Secession was impossible, and the acts of Secession were as null as such acts in an English county would be. The right to secede could not be drawn from the Constitution of

1787, for that was drawn from an earlier constitution, which gave no such rights. By that more ancient law there is a division of powers between the general and the particular governments. Every State has authority within its own borders, but not extra-territorial. The United States authority extends among all the States and binds them together; this tie can never be broken. But there are privileges which States enjoy under the United States, and only as under it. These privileges, like all favors, may be relinquished by States, and, if relinquished, would leave the States bound by the tie of obligation, but shorn of the advantages which they have abandoned. Secession, therefore, reduces a State to the condition of a Territory, united quite as much as before to those she had attempted to leave, but without the privileges she had voluntarily renounced. "A Territory by coming into the Union becomes a State; a State by going out of the Union becomes a Territory."

Dr. Brownson finds three parties in the United States: the Southern democracy, which he calls personal, since its object is an unjust personal liberty basing itself on might; the democracy represented by the Abolitionists, which he calls humanitarian, basing itself upon the rights of man as man and upon the higher law; and the territorial democracy, which represents, for the most part unconsciously, the theory of government supported by the author. The two former are the opposing and yet parallel extremes. Each would run out to infinite barbarism were there not the check of the middle party. "Wendell Phillips is as far removed from true Christian civilization as was John C. Calhoun, and William Lloyd Garrison is as much of a barbarian and despot in principle and tendency as Jefferson Davis." We select this sentence partly as showing the author's views, and partly as showing his tendency to inaccuracy of thought. There are a few misstatements in the book. To say that the Darwinian theory is not sustained by science, because the acorn develops the oak, never the pine or linden (p. 90), is to say a thing absurdly irrelevant; and a statement that the British government cannot be carried on by fair, honest, and honorable means, is not to be proved by saying that corruption of every sort is implied in the necessary attempt of the British statesman to manage diverse and antagonistic parties so as to gain the ability to act (p. 253). It is in cases where an approaching conflict of theory and truth may be discerned, that Dr. Brownson, *vi et armis*, gags the one he loves least. But Dr. Brownson has even with his ardor for theory a sincere and earnest love of truth; and there are so few men who feel that pure affection, that the addition of one to the number is an encouragement to his fellow-seekers, even if he only show them paths they should not follow.